



f00366.000125

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
MICHAEL MÜLLER)
Appln. No.: 09/810,395)
Filed: March 19, 2001)
For: APPARATUS, METHOD AND)
PROGRAM FOR FORMULATING :
AND SOLVING PROBLEMS)
OVER A NETWORK :
Examiner: Yehdega Retta
Art Unit: 3622
Confirmation No.: 6004
Customer No.: 05514
November 30, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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November 30, 2005

(Date of Deposit)

Frank A. DeLucia - Reg. No. 42,476

(Name of Attorney for Applicant)

Signature

November 30, 2005

Date of Signature

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This Response is filed in response to the Office Action dated October 31, 2005, which set forth a shortened statutory period for reply ending on November 30, 2005. It is believed that no extension fee is required in connection with this Response. However, if an extension fee is deemed required, please charge any such fee to Deposit Account 06-1205.

The Office Action required restriction to one of the following Groups:

Group I, Claims 1-22 and 55-103, drawn to a server for receiving information and distributing an award, classified in class 705, subclass 14;

Group II, Claims 23-32, drawn to a terminal for accepting and placing formulation of a problem, classified in class 705, subclass 14; and

Group III, Claims 33-54, drawn to a server and terminal for receiving and placing formulation of a problem, classified in class 705, subclass 14.

Accordingly, Applicant hereby elects Group I (Claims 1-22 and 55-103) for initial prosecution on the merits, subject to the below traversal of the restriction requirement.

The restriction requirement is respectfully traversed for the following reasons.

The Office Action states that the Groups I, II, and III “are related as subcombinations disclosed as usable together in a single combination”, and cites MPEP § 806.05(d) as authority (see pages 2-3 of the Office Action). However, Applicant respectfully requests reconsideration and withdrawal of the restriction requirement in view of the following remarks.

According to MPEP § 806.05(a), “[a] combination is an organization of which a subcombination ... is a part.” MPEP § 806.05(d) states that “[t]wo or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually distinct from each other.” In the instant case, the Office Action does not specifically identify what is the alleged “single combination” apparently formed by the so-called “subcombinations” of Groups I, II, and

III. Neither does the Office Action explain how any such “single combination” could be formed by combining the invention of Group III, the claims of which are directed to an overall system comprising both a server and a terminal, with the Group I and II inventions, in which Claims 1-22, 93, and 94 from Group I are directed only to a server, Claims 55-64, 98, and 99 from Group I are directed only to an apparatus, and Claims 23-32 from Group II are directed only to a terminal.

Moreover, Claims 96 and 97 (depending from Group III Claim 33) are directed to a system and Claim 95 (depending from Group II Claim 23) is directed to a terminal, – *not* a server as stated in the Office Action. Likewise, Claims 65-82, 100, and 101 are directed to a method, and Claims 83-92, 102, and 103 are directed to computer code, rather than a server as stated in the Office Action. Thus, these claims are mis-grouped in the Office Action and thus the restriction requirement involving those claims is believed improper. Moreover, clearly subject matter directed to computer code (Claims 83-92, 102, and 103) and subject matter directed to a method (Claims 65-82, 100, and 101) cannot be subcombinations forming a single combination with a system, such as that recited in Group III Claims 33-54.

Furthermore, a careful review of the present specification and the claims reveals the respective alleged Groups are so closely related as to warrant consideration in a single application, and it is thought that Applicant should not be put to the expense of filing an additional applications in order to obtain patent protection on Groups II and III, and that neither Applicant nor the Patent and Trademark Office should be put to the additional effort which would be entailed in multiple filings and prosecution. Indeed, examination of each Group I, II, and III in the present application should impose no

substantial additional burden on the Patent and Trademark Office, particularly because *all* of those Groups of claims were examined on the merits previously in the present single application. Moreover, it is respectfully submitted that the public at large should not be required to obtain and study no less than three separate documents in order to have available the complete subject matter and protection, as outlined by claims which may issue, of the present single application.

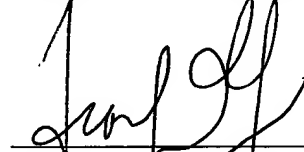
Accordingly, for all of the foregoing reasons, reconsideration and withdrawal of the restriction requirement are respectfully requested.

If the Examiner is not persuaded to withdraw the restriction requirement in view of the above comments, the Examiner is respectfully requested to explain (1) how the Group III invention could be combined with the Group I and II inventions to form a single combination, where the Group I claims are directed to an overall system comprising both a server and a terminal, whereas, on the other hand, Claims 1-22, 93, and 94 from Group I are directed only to a server, Claims 55-64, 98, and 99 from Group I are directed only to an apparatus, and Claims 23-32 from Group II are directed only to a terminal; (2) how the restriction can be justified with respect to Claims 65-82, 83-92, 95, 96, 97 100, 101, 102, and 103, where those claims are mis-grouped in the Office Action; and (3) why continued examination of all pending claims would be a substantial additional burden on the Patent and Trademark Office when claims from each Group were examined on the merits previously in this application.

Favorable reconsideration of all claims on the merits and early passage to issue of the present application are respectfully requested.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100 or by facsimile at (212) 218-2200. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Frank A. DeLucia', is written over a horizontal line.

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